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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2013-132**

12 **ROBERTA GORDIN**
11 Hidden Valley Road
13 Monrovia, CA 91016

A C C U S A T I O N

14 Registered Nurse License No. 649332
15 Public Health Nurse License No. 73227

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs (Board).

23 **License Histories**

24 **Registered Nurse License**

25 2. On or about December 9, 2004, the Board issued Registered Nurse License
26 No. 649332 to Roberta Gordin (Respondent). The Registered Nurse License was in full force and
27 effect at all times relevant to the charges brought herein and will expire on March 31, 2014,
28 unless renewed.

1 **Public Health Nurse License**

2 3. On or about April 28, 2008, the Board issued Public Health Nurse License No. 73227
3 to Roberta Gordin (Respondent). The Public Health Nurse License was in full force and effect at
4 all times relevant to the charges brought herein and will expire on March 31, 2014, unless
5 renewed.

6 **JURISDICTION**

7 4. This Accusation is brought before the Board under the authority of the following
8 laws. All section references are to the Business and Professions Code unless otherwise indicated.

9 **STATUTORY PROVISIONS**

10 5. Section 118, subdivision (b), provides that the suspension, expiration, surrender or
11 cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary
12 action during the period within which the license may be renewed, restored, reissued or
13 reinstated.

14 6. Section 490 states, in pertinent part:

15 "(a) In addition to any other action that a board is permitted to take against a licensee, a
16 board may suspend or revoke a license on the ground that the licensee has been convicted of a
17 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
18 or profession for which the license was issued.

19

20 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
21 conviction following a plea of nolo contendere. Any action that a board is permitted to take
22 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
23 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
24 made suspending the imposition of sentence, irrespective of a subsequent order under the
25 provisions of Section 1203.4 of the Penal Code. . . ."

26 7. Section 2750 provides that the Board may discipline any licensee, including a
27 licensee holding a temporary or an inactive license, for any reason provided in Article 3
28 (commencing with section 2750) of the Nursing Practice Act.

1 8. Section 2761 states, in pertinent part:

2 "The board may take disciplinary action against a certified or licensed nurse or deny an
3 application for a certificate or license for any of the following:

4 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

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6 "(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
7 violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice
8 Act] or regulations adopted pursuant to it.

9

10 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
11 functions, and duties of a registered nurse, in which event the record of the conviction shall be
12 conclusive evidence thereof. . . ."

13 9. Section 2762 states, in pertinent part:

14 "In addition to other acts constituting unprofessional conduct within the meaning of this
15 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
16 chapter to do any of the following:

17

18 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
19 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
20 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
21 himself or herself, any other person, or the public or to the extent that such use impairs his or her
22 ability to conduct with safety to the public the practice authorized by his or her license.

23 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
24 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
25 or the possession of, or falsification of a record pertaining to, the substances described in
26 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
27 thereof. . . ."

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10. Section 2764 provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b), the Board may renew an expired license at any time within eight (8) years after the expiration.

REGULATORY PROVISION

11. California Code of Regulations, title 16, section 1444 states, in pertinent part:

“A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

“(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160. . . .”

COST RECOVERY

12. Section 125.3 provides that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Convictions of Substantially Related Crimes)

13. Respondent is subject to disciplinary action under Sections 490 and 2761, subdivision (f), in conjunction with California Code of Regulations, title 16, section 1444, in that Respondent was convicted of crimes substantially related to the qualifications, functions or duties of a registered nurse which to a substantial degree evidence her present or potential unfitness to practice in a manner consistent with the public health, safety, or welfare. The circumstances of the criminal convictions are as follows:

a. On or about February 23, 2011, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 23152(a) [drive while under the influence of alcohol] in the criminal proceeding entitled *The People of the State of California v. Roberta Gordin* (Super. Ct. Los Angeles County, 2011, No. 1PS00301). The Court

1 placed Respondent on 36 months' probation, and ordered her to complete a 3-Month First
2 Offender Alcohol Program.

3 b. The circumstances underlying the conviction are that on or about January 10, 2010,
4 Respondent drove a vehicle at night with its vehicle lights out, while having a tested blood
5 alcohol content level of 0.18/0.17%.

6 c. On or about August 6, 2010, after pleading nolo contendere, Respondent was
7 convicted of one misdemeanor count of violating Penal Code section 597(s)(a) [willful
8 abandonment of animal by owner] in the criminal proceeding entitled *The People of the State of*
9 *California v. Roberta Gordin* (Super. Ct. Los Angeles County, 2010, No. 0PS77640). The Court
10 placed Respondent on two years' probation, ordered her to complete 15 days Cal Trans and 52
11 sessions of a Domestic Violence Program.

12 d. The circumstances underlying the conviction are that on or about June 7, 2010,
13 Respondent drove to a residential neighborhood in Monrovia, stopped at the side of the road,
14 threw her family's dog¹ out of the vehicle and drove away. Respondent's family, her husband
15 and two daughters were looking for the dog until they were informed by police about a report of
16 Respondent's actions regarding their family dog.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Alcohol Related Conviction)**

19 14. Respondent is subject to disciplinary action under Sections 2761, subdivision (a), and
20 2762, subdivision (c), on the grounds of unprofessional conduct, in that on or about February 23,
21 2011, Respondent sustained a conviction involving the consumption of alcoholic beverages.
22 Complainant refers to and by this reference incorporates the allegations set forth above in
23 Paragraph 13, subparagraphs a and b, inclusive, as though set forth fully.

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28 ¹ The family dog is Molly, a five-year-old female Shih Tzu, tan and cream colored.

underlying the conviction occurred on or about July 17, 1994, when Respondent was arrested.

c. On or about August 2, 1994, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 14601.2(a) [drive with a suspended license] in the criminal proceeding entitled *The People of the State of California v. Roberta Gordin* (Muni. Ct. Los Angeles County, 1994, No. 94M00832). The Court sentenced Respondent to 180 days in jail, placed her on three years' probation, and ordered her to stay away from R.M. The circumstances underlying the conviction occurred on or about February 15, 1994, when Respondent was arrested.

d. On or about May 25, 1993, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 23152(a) [drive while under the influence of alcohol] in the criminal proceeding entitled *The People of the State of California v. Roberta Gordin* (Muni. Ct. Los Angeles County, 1993, No. 93M01559). The Court placed Respondent on five years' probation, and ordered her to complete a 3-Month First-Offender Alcohol Program. The circumstances underlying the conviction occurred on or about April 5, 1993, when Respondent was arrested.

e. On or about October 23, 1992, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Penal Code section 242 [battery] in the criminal proceeding entitled *The People of the State of California v. Roberta Gordin* (Muni. Ct. Los Angeles County, 1992, No. 92M04085). The Court sentenced Respondent to five (5) days jail, and placed her on three years' probation. The circumstances underlying the conviction occurred on or about August 15, 1992, when Respondent was arrested.

f. On or about April 13, 1992, after pleading guilty, Respondent was convicted of two (2) misdemeanor counts of violating Penal Code sections 273.5(a) [inflict corporal injury on spouse] and 245(a)(1) [assault with a deadly weapon/instrument] in the criminal proceeding entitled *The People of the State of California v. Roberta Gordin* (Super. Ct. Los Angeles County, 1992, No. 92M01584). The Court sentenced Respondent to 80 days jail, and placed her on three (3) years probation. The circumstances underlying the conviction occurred on or about March 27, 1992, when Respondent was arrested.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Registered Nurse License No. 649332, issued to Roberta Gordin;
2. Revoking or suspending Public Health Nurse License No. 73227, issued to Roberta Gordin;
3. Ordering Roberta Gordin to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
4. Taking such other and further action as deemed necessary and proper.

DATED:

August 16, 2012

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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